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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,093	08/06/2003	Jack V. Henderson	19350-094719	9668

7590                    11/24/2004

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/635,093	HENDERSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryan Fischmann	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 August 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) 7 and 8 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08-06-2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

***Specification***

1. The disclosure is objected to because of the following:

A) The following inconsistencies in nomenclature were noted:

1) Line 5 of page 4 recites "shaft 35". Line 24 of page 4 recites "linkage 35".

B) The specification is objected to, as the first sentence fails to note that the Instant Application is claiming domestic priority from a provisional application.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description:  
25. Correction is required.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the contoured surface merging with adjacent vehicle panels as recited in claim 1 must be shown or the feature canceled from the claim. No new matter should be entered.

4. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

5. The drawings are objected to, as the reference numbers on the left side of Figures 3 and 4 are, for the most part, not legible.

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***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Favrel, US Patent 4,188,889.

Favrel teaches running board assembly for accommodating access to a motor vehicle, said running board assembly comprising:

a plurality (Figure 3) of mounting brackets (19) fixedly securable to a motor vehicle; and

a step (2) movably secured to said plurality of mounting brackets, said step defining a stepping surface, a peripheral edge (22A) extending around said step and a contoured surface opposite said stepping surface, said step movable between a deployed position (Figure 1) providing access to said stepping surface and a stowed position (Figure 2) wherein a portion of said peripheral edge abuts the motor vehicle and said contoured surface merges with adjacent vehicle panels (Figure 2).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Favrel, US Patent 4,188,889, in view of Thomas, US Patent 3,887,217.

Favrel fails to teach the use of a motor to operate the linkage. Favrel instead teaches the use of a pneumatic jack (17).

However, Thomas teaches the use of a motor (42) to move a linkage in a movable step (Figure 1). A motor is advantageous over a pneumatic jack in movement of the retractable step in that the motor may utilize the existing electrical system, instead of having to provide a compressor for the pneumatic jack. Also, the compressor may require operation of the engine to operate, which would not be necessary with an electrical motor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a motor to operate the linkage of Favrel, as taught by Thomas.

Regarding claim 6, see reference number 44 of Thomas.

***Allowable Subject Matter***

10. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yoder and Leitner – teach retractable steps

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRYAN FISCHMANN  
PRIMARY EXAMINER